

In the Matter of Karen Alfred, Department of Labor and Workforce Development

DOP Docket No. 2006-2672

(Merit System Board, decided May 10, 2006)

The Department of Labor and Workforce Development (DOL) requests a retroactive permanent appointment date for Karen Alfred, a Technical Assistant 2 (Labor).

A review of Department of Personnel (DOP) records reveals that only Alfred applied for the promotional examination for Technical Assistant 2 (Labor) (PS2358N) which had a closing date of June 21, 2004. However, the Division of Selection Services (Selection Services) determined that Alfred was ineligible for the subject examination. Thereafter, Alfred appealed to the Merit System Board (Board). In the attached September 7, 2005 decision, the Board accepted the clarifying information she submitted on appeal. Therefore, the Board ordered that her application be processed. Subsequently, the eligible list, consisting of only Alfred's name, promulgated on November 10, 2005. The appointing authority returned the November 10, 2005 certification (PS052949) appointing Alfred, effective November 10, 2005.

On appeal, the DOL requests that Alfred be granted a retroactive appointment date of September 18, 2004, on equitable grounds pursuant to *N.J.A.C.* 4A:4-1.10(c). It states that September 18, 2004 represents a date subsequent to when a list would have been generated from the announcement which was issued in June 2004. It is noted that Alfred had been serving provisionally as a Technical Assistant 2 (Labor) since July 27, 2002. The DOL notes that it permanently appointed Alfred, effective November 10, 2005, with a current working test period.

CONCLUSION

N.J.A.C. 4A:4-1.10(c) provides:

When a regular appointment has been made, the Commissioner may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties.

Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an error on the part of either the appointing authority or the DOP, he or she received a later appointment date. In the instant matter, although the DOL requests

that Alfred be provided with a retroactive date of appointment, it does not assert that an administrative error or administrative delay occurred. In this regard, it is noted that the record reveals that Alfred was correctly deemed ineligible by Selection Services. However, she was admitted to the subject examination after the Board accepted her clarifying information that she *submitted on appeal*. See *N.J.A.C. 4A:4-2.6(a)* and *N.J.A.C. 4A:4-2.1(g)*. Therefore, since Alfred did not provide sufficient information on her initial application to determine that she was eligible, there is not good cause to provide her with a retroactive appointment date.

ORDER

Therefore, it is ordered that this request be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.